

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**MARIA ROJAS,**  
**Plaintiff,**

**v.**

**RENFRO INDUSTRIES, INC.,**  
**DISPUTE SOLUTIONS, INC. and**  
**ESSENTIAL CORPORATE**  
**SOLUTIONS, INC.,**  
**Defendants.**

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**CIVIL ACTION NO. 3:16-CV-02896-D**

**DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION TO REMAND**

Subject to and without waiving its rights to arbitration and to compel arbitration, Defendant Renfro Industries, Inc. ("**Renfro**"), joined by Defendants Dispute Solutions, Inc. ("**DSI**") and Essential Corporate Solutions, Inc. ("**ECS**"), file the following Response, Defendants' Brief In Support to Plaintiff's Motion To Remand ("**Defendants' Brief**") and Appendix in Support of Defendants' Response to Plaintiff's Motion to Remand ("**Appendix**") and would show the Court as follows:

1. As explained in Defendants' accompanying Brief In Support as well as in Defendants' Notice of Removal, Plaintiff's First Amended Original Petition ("**FAOP**") expressly asserts claims against Renfro Industries, Inc. ("**Renfro**") in its capacity as Plan Administrator of the Renfro Industries, Inc. Employee Injury Benefit Plan (the "Plan"), an employee welfare benefit plan for occupational injuries voluntarily established by Renfro under the Employee Retirement Income Security Act of 1974 ("**ERISA**").

2. Plaintiff's FAOP asserts claims for nondisclosure and fraudulent inducement, contending that Renfro, as Plan Administrator, failed to disclose certain information in the Plan's Summary Plan Description ("**SPD**") when Plaintiff elected to agree to the terms of an Election

And Arbitration Agreement in order to become a Participant in the Plan and eligible for the Plan's benefits for on-the-job injuries at Renfro.

3. Although Plaintiff's claims for fraudulent inducement, fraud by nondisclosure, conspiracy and for injunctive relief do not fall within the scope of 29 U.S.C. §1132(a)(1)(B), they **DO** fall within the scope of 29 U.S.C. §1132(a)(2), §1109, and §1132(a)(3), and are thus completely preempted by ERISA. As a result this Court has jurisdiction as required by 29 U.S.C. §1132(e)(1). Plaintiff's Motion to Remand must be denied.

WHEREFORE, Defendants pray that Plaintiff's Motion to Remand be denied, and Defendants granted such other and further relief to which they may be entitled.

Respectfully submitted,

**/s/ Gary D. Sarles**

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**ATTORNEY FOR DEFENDANTS ESSENTIAL  
CORPORATE SOLUTIONS, INC. and  
DISPUTE SOLUTIONS, INC.**

**CERTIFICATE OF SERVICE**

This is to certify that on this 5th day of December, 2016, a true and correct copy of the above and foregoing Defendants' Response to Plaintiff's Motion to Remand was served via the Court's ECF system on Plaintiff's counsel of record:

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**/s/ Gary D. Sarles**

Gary D. Sarles